IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHANAN

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

FAO.No. 101 of 2003()

AGAINST THE ORDER DATED 12/06/2003 IN EA.775/01 IN EP.808/95
IN OS.120/1987 of ADDL.SUB COURT, NORTH PARAVUR
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APPELLANT/PETITIONER/JUDGMENT DEBTOR

ANTONY S/O. VARU, KANAPPILLY,
VALLUVALLY MURI, KOTTUVALLY VILLAGE.

BY ADV. SRI.S.SHYAM
SRI.BOBBYMATHEW KOOTHATTUKULAM

RESPONDENTS: RESPONDENTS/DECREE HOLDERS
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1. RAMAKRISHNAN S/O. SANKARANARAYANA IYER,
KANNANKULANGARA KIZHAKKEMADOM, PARAVUR.

2. SUBRAMANIYA IYER
S/O. SANKARANARAYANA IYER, DO. DO.

3. VENKITESWARA IYER S/O. DO. DO. DO.

4. PANKAJAM IYER
W/O. SAHASRANAMA IYER, DO. DO.

5. SANKARANARAYANA IYER
S/O. SAHASRANAMA IYER, DO. DO.

6. SIVARAMAKRISHNAN S/O. DO. DO. DO.

7. HARIHARAN S/O. DO. DO. DO.

8. MURALI S/O. DO. DO. DO.

9. VISALAKSHY D/O. DO. DO. DO.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 17/09/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMAN & V. K. MOHANAN, JJ.

F.A.O. NO. 101 OF 2003

DATED THIS, THE 17TH DAY OF SEPTEMBER, 2007.

J U D G M E N T

Raman, J.

This is an appeal against the order passed by the Additional Sub Judge, North Paravur, dated 12.6.2003, in E.A. 775/2001 in E.P. 808/1995 in O.S. No. 120/1987. The appellant is the defendant in the suit. The suit is one for realisation of money. The suit was compromised based on which a decree was passed. The respondent herein filed the execution petition. 8 items of properties belonging to the appellant were proclaimed for sale. Two items were already sold. The appellant's application filed under Order 21 Rule 90 of the Code of Civil Procedure for setting aside the sale alleging irregularity and fraud was dismissed against which the present appeal is filed.

2. During the pendency of this appeal, the matter was settled between the parties. A memo to that effect is filed by the second respondent who is one of the decree holders and auction purchaser. It is prayed as per the memo that in view of the above position, the appeal may be disposed of accordingly.

Heard the parties. It is agreed as per the memo filed, that the sale of the property be set aside and the decree be recorded as satisfied. Since the decree holder has obtained the money, the decree is recorded as satisfied and the sale is set aside.

The appeal is allowed as above. No costs.

P.R. RAMAN,
(JUDGE)

V. K. MOHANAN,
(JUDGE)

knc/-